

July 8, 2005

C. April Boling, CPA  
Treasurer  
7185 Navajo Road, Suite L  
San Diego, CA 92119

**Re: Your Request for Advice  
Our File No. A-05-110**

Dear Ms. Boling:

This letter is in response to your request on behalf of yourself C. April Boling, Treasurer for advice regarding campaign provisions of the Political Reform Act (the "Act").<sup>1</sup>

### **QUESTION**

Friends to Re-Elect Richman had no net debt after the November 2, 2004, election. After the committee was closed in December of 2004, a bill related to the campaign surfaced in February of 2005. May Friends to Re-Elect Richman reopen to pay the outstanding bill and raise sufficient funds to pay that bill and administrative overhead associated with reopening the committee and retiring the debt?

### **CONCLUSION**

Yes.

### **FACTS**

Friends to Re-elect Richman (ID 1252000) had no net debt after the November 2, 2004 election. After all bills known at the time were paid, Friends to Re-elect Richman transferred its remaining funds in the amount of \$32,800.21 to Richman for Treasurer (ID 1263366) on a LIFO basis in December 2004, and then closed the committee.

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<sup>1</sup> Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

You state that in February 2005, the existence of an additional \$1,500 debt to Friends to Re-elect Richman was made known to the committee. You understand that the committee Friends to Re-elect Richman may be reopened pursuant to regulation 18404.1, subdivision (i)(5). That application will be made upon receipt of a response to this request for advice.

### ANALYSIS

Section 85316 restricts a candidate for state elective office from accepting a contribution after the date of an election.

“A contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.”

As described in your letter, the outstanding \$1,500 bill that was received after the committee closed would have been paid prior to the transfer if it had been received earlier. Under these circumstances, where a committee has no reason to believe an outstanding bill is forthcoming and transfers its balance of funds and closes the committee, we characterize a new bill to be net debt of the committee. As a result, the committee may reopen to raise funds to pay the debt. Funds may be raised not only to cover the outstanding debt but also to cover administrative costs associated with raising the funds, complying with reporting requirements and winding down the committee. (Reg. 18531.61, subd. (d).)<sup>2</sup>

Section 85306, subdivision (a), allows candidates to transfer funds from one controlled committee to another of his or her controlled committees for elective state office under certain circumstances. This includes transfers of funds to pay debts of the committee receiving the funds. (*See Bauer Advice Letter*, No. A-04-179.) The funds must be attributed to specific contributors to the committee making the transfer using a “last in, first out” or “first in, first out” accounting method. Thus, if the committee so wishes, the Richman for Treasurer Committee may transfer funds using either the LIFO or FIFO accounting method to pay the debt of the Friends to Re-Elect Richman committee once it is reopened pursuant to regulation 18404.1.<sup>3</sup>

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<sup>2</sup> We note that an amended Form 460 for the appropriate periods will have to be filed to reflect the unpaid bill.

<sup>3</sup> As you may already be aware, the Commission recently adopted regulation 18530.7, pertaining to extensions of credit. While not applicable to the particular events at issue in your request, you should be aware that this regulation may impact future occasions where the debt of a committee goes unpaid for a certain period of time. A copy of the regulation is enclosed for your convenience.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca  
General Counsel

By: C. Scott Tocher  
Senior Commission Counsel  
Legal Division

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